



The Privacy Act of 1974:
Education Department student loan records
Responsibilities of Department staff and contractors

August 2005

The **Privacy Act** is a Federal statute that requires a Federal agency to assure access for individuals to certain information held by the agency regarding that individual, and to restrict the acquisition, use and disclosure of that information. The statute is found at **5 U.S.C. 552a**.

Department regulations implementing the Privacy Act are found at **34 CFR part 5b, Appendix 1**. Particular requirements for the particular records in which the information is maintained are contained in **Employee Standards of Conduct, Appendix 2**, and in the **System Notices** for the various records. **Appendix 3**.

ACS Directive OCIO:1-101, issued January 10, 2005, provides more comprehensive guidance; available on the web at <http://connected1.ed.gov/po/om/executive/acs/main.html>.

Privacy Act applies to:
information about **individuals**
contained in a **system of records**
maintained by an **Executive or independent agency** – or by **contractors on its behalf**

The Act applies to **individually identifiable information** maintained by the Executive and independent agencies of the Federal Government. ED's policy is to protect individual privacy in the collection and use of personally identifiable information while permitting the exchange of records to fulfill ED's administrative functions. This affects the exchange of personal information between the Department and its contractors, the acquisition of that information from the individual and third parties, the release of that information, and the availability of that information to the individual.

- Contractor and its employees, and subcontractors and their employees, are treated as if they were Federal employees for purposes of the Act if either maintains a system of records to further agency purposes.
- Contractors and their employees are required by contract to comply with the Act and the Employee Standards of Conduct, 34 CFR Part 5b Appendix A, and are subject to criminal penalties under the Act for prohibited disclosures.
- Contractor employees may be "system employees" under Standards of Conduct. They have a higher duty of care for information and records protected by the Act. Appendix B.

Coverage: To what information does the Privacy Act apply?
Privacy Act applies to a **"Record"** - a collection of information about an individual that -

- **includes individual's name or other personal identifier**, and reflects a **quality** of the individual, **and**
- is contained in a **"System of Records"** –

A grouping of information about an individual that is **retrieved** by individual's **name or other personal identifier**

- A collection of information maintained by an agency is a Privacy Act-protected “**record**” if -
 1. the collection of information contains some **quality or characteristic** about the **individual**, including but not limited to the individual's Social Security Number [SSN], education, financial transactions (including financial aid under the HEA), medical history, and criminal or employment history and
 2. contains the **individual's name, or an identifying number [e.g., SSN]**, symbol, or other identifier assigned to the individual, e.g., finger or voice print or a photograph.
- For Privacy Act purposes, “**record**” means only a record which is in a system of **records**. Privacy Act “records” include account information on individuals provided by the Department to contractors. This information remains subject to the Act while in the hands of the contractor.
- Almost any information about the individual **acquired by the contractor directly or indirectly from these records** provided by the Department in the course of using that record is Privacy Act-protected **because its disclosure would tend to disclose information from Department records**. Thus, “satellite” databases created by a contractor using ED Privacy- Act protected records, populated with information from those records, segregated from other contractor records and retrievable by name or SSN may be part of, or at least must be restricted to the uses authorized for, the established system of records.
- **But not** all “records” regarding an ED debt are records **within the meaning of the Privacy Act**:
 - **Tests for whether records are included within ED records on an individual:**
 1. Is the record intended to be retained among the Department’s records on that individual?
 2. Is the record required by contract provisions to be secured, returned or transmitted to the Department?
 3. Can the record be prepared, maintained or discarded at the discretion of the contractor’s employee?
 - **PCA Collector Notepad entries** on PCA database are by contract subject to turnover to ED, and thereafter inclusion in ED records, upon termination of the contract.
 - In addition, ED can secure copies of these records during the contract, and expects to do so when needed, for example, in opposing discharge of student loans.
 - ED relies, at least implicitly, upon the information posted by the PCA to the PCA notepads in taking action – e.g., pursuing AWG or TOP.

Thus, at least with respect to the PCA collector notepad material, the better view is to consider the PCA's Collector Notepad records to be Privacy-Act records

- **Consequences:** When the subject individual asks for **access** to his or her records, that includes the PCA Collector Notepad record. [see below]
- **Cautionary note:** Release of information from informal non-protected records could constitute a disclosure of protected records unless the information released was derived from **a source totally independent** of the protected records, and was not information that the record-maker obtained to create the protected record. Those records are subject to any disposal provisions of the contract, however.

To lawfully establish a system of records, an agency must publish a Notice in the Federal Register regarding that the system. The system notice describes the location of the records, the kinds of records included in the system, the kinds of individuals whose records are included in the system, the purposes for which the records are created, maintained, and used; the authority for the creation of the records; and, most practically, the routine uses authorized for the records contained in that system.

Contractor's own records, such as personnel records, that are created by the contractor's management and subject to its discretion are not included. 34 CFR 5b.12(c).

The Department has organized the records used for collection of student loan and grant overpayment accounts in several systems available to contractors. **Appendix 3:**

1. **"Title IV Program Files"** # 18-11-05, as renumbered, Dec. 27, 1999, 64 Fed. Reg. 72407; notice published April 12, 1994, 59 Fed. Reg. 17351, and formerly numbered #18-40-0024. (Direct Loan records)
2. **"Student Financial Assistance Collection Files,"** # 18-11-07, notice published June 4, 1999, 64 Fed. Reg. 30106, amended December 27, 1999, 64 Fed. Reg. 72407. (Defaulted loans handled by Borrower Services – Collections)
3. **"National Student Loan Data System (NSLDS),"** #18-11-06, notice published December 27, 1999, 64 Fed. Reg. 72395. (All loans)

Note: The Department is developing a new system to combine the first two of these records in a **"Common Services for Borrowers"** system of records.

What rights does the Privacy Act give to individuals?

The Act assures an individual the right to --

- access to most of his or her records
- copy or amend own records if not accurate
- appeal denial of request for amendment
- freedom from unauthorized release of records
- sue agency for violation of the Act & get attorney fees and damages

Agency Responsibilities

Collect and maintain only information **relevant & necessary** to accomplish the function for which the Department is responsible.

Permit individuals to gain access and correct inaccurate records.

Collect, to the greatest extent practicable,* information directly from the subject of the record

Maintain records securely

Disclose only with subject's consent or, without consent, for specifically authorized or "routine uses."

Access to the individual Generally verification of identity is required for access by an individual to his or her records; for telephone release, the verification is to consist of identifying particulars that parallel the record to which access is sought. 34 CFR 5b.5(b)(v).

Check the system notice: The system notice for each system explains the requirements for verification of identity; thus access to records (information in records) in the Student Financial Assistance Collection System requires:

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with **your name, date of birth and Social Security number**. Requests must meet the requirements of the regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager and **provide information as described in the notification procedure**. Requests by an individual for access to a record must meet the requirements of the regulations at 34 CFR 5b.5.¹

¹ The NSLDS notification and access requirements are similar to the SFA Collection File System requirements: If you wish .. access to ... [or] to determine whether a record exists regarding you in this system of records, you must provide the system manager your name, date of birth, Social Security number, and the name of the school or lender from which the loan or grant was obtained

Verification for routine uses compared: Note that there are no specific requirements in Department regulations for verification of identity of entities or persons identified as potential recipients of protected information as "routine use" information recipients. The Department requires the subject individual at least to present a correct SSN.

Disclosure "Disclosure" is a **release** of record [name/ssn & personal characteristic] to a **third party**, 34 CFR 5b.1(d), who **does not already know** the information.

Disclosure can be with consent of individual, or for generally-authorized purposes, or for "routine uses."

Consent must be in writing, signed by individual, naming parties to whom information can be disclosed, and time period allowed.

- Attorney retainer agreement not necessarily sufficient to allow disclosure to attorney for the individual.
- *Compare: FDCPA treats communication regarding debt with spouse or attorney as the same as communication to consumer: Privacy Act does not.*
- If disclosing by reason on consent from the subject, secure from any **third party** (attorney, relative, friend, potential payoff-lender) who **requests disclosure of Privacy Act-protected information from you** an **authorization signed by the subject individual**.
- **Access and third-party telephone inquiries.** Ordinarily information from the record of the individual may not be released without prior **written** approval from the subject individual. However, the individual has the right to be "accompanied by another person of his choice when he requests access to a record." 34 CFR 5b.5(a). Thus, if the third-party inquiry is made **with or by the subject individual – as, for example, in a joint telephone call –** the information in the **record** can be disclosed during the call to the requesting individual **in the "telephonic presence" of his or her companion**. An example of such an inquiry may be lender request for loan balance for a borrower who applies for a mortgage or refinancing.

Routine Use:

A **disclosure** of a record **to a third party** by the agency - or contractor - maintaining the system of records,

For a purpose that is **consistent with purpose** for which the information was collected, **and**

Within the purposes described in the purpose clause in published system notice.

"Need to Know" disclosures among Department or contractor staff: Although disclosure within the Department, to the contractor, and among contractor staff is a routine use, disclosure may only be made to staff with a **need to know** the information in the performance of their official duties. 34 CFR 5b.9(b)(1).

The system notice for the **Student Financial Assistance Collection Files** (See Appendix 3) provides some 13 routine uses specific to that system of records, most of which are **not** typically relevant to contractor use of system records. Pertinent terms of the most typically-used routine uses for the Collection Files System include:

(1) **Program Disclosures.** The Department may disclose information from this system to Federal, State, or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, guaranty agencies, educational and financial agencies or institutions, consumer reporting agencies, contractors and hearing officials for the following purposes:

- (1) To verify the identity of the applicant;
- (2) to determine program eligibility and benefits;
* * * *
- (4) to enforce the conditions or terms of the loan;
- (5) to permit servicing, collecting, or accepting the loan;
- (6) to counsel the borrower in repayment efforts;
* * * *
- (8) to locate a delinquent or defaulted borrower;
- (9) to issue collection letters;
- (10) to locate a missing borrower;
- (11) to collect in-file history information to determine assets and ability to pay;
- (12) to determine last known address;
* * * *
- (14) to prepare for litigation or to litigate collection service and audit;
* * * *
- (17) to verify death;
- (18) to conduct credit checks; and
- (19) to investigate complaints, update files, and correct errors.

Disclosure as a routine use is allowed only for a purpose consistent with the purpose for which the information was collected:

Note that the disclosure as a routine use must be **both** for a purpose that falls under a “routine use,” **and** at least **compatible with, if not expressly within**, the purpose for which the information was gathered.

- A release of protected information to “relatives,” “creditors” and “financial institution” is generally authorized for records in the SFA Collection Files system.
- **However**, inquiries from **those same parties** may not be consistent with the purposes for which the information was gathered by the Department from the borrower. For example, disclosure to these parties of requested information cannot be justified under the routine uses, when requested in the following:
 - an inquiry from a mortgage lender seeking information within the record that is relevant to **its own credit assessment** (e.g., income reported or debt burden already incurred by the debtor/mortgage applicant);
 - an inquiry from a trade creditor (e.g., a hospital or credit card company) seeking information relevant to its own delinquent debt;

- an inquiry from a spouse seeking financial data regarding the debtor for purposes of a divorce or support lawsuit.
- ***Debt collector note:*** *Unlike the FDCPA, the Privacy Act treats a release to a representative of the subject (e.g., attorney, parent, spouse), as a **disclosure**, not a release (or communication) with the subject individual.*
- **Confirming identity of recipient of disclosure:** Particularly as identity theft is assuming epidemic proportions, Department staff or contractors must take care to ensure that any disclosure intended, and justified, as a routine use is made to an individual who is actually authorized to receive that information. Keep in mind that the “family member” who calls or is contacted by Education staff may in fact be an estranged and violent ex-spouse, seeking to learn the location information of the debtor.
- The Department has not yet adopted any particular security procedures for confirmation of identity of such recipients. Therefore, staff should approach such disclosures, especially those that might be made in response to query from outside the Department, with appropriate caution. Common sense must be applied to a sound knowledge of the Title IV program operations. For example –
 - Disclosure of a borrower’s loan status to an individual who simply identifies herself as an employee of a postsecondary school and who states that the information is needed to determine eligibility for new student aid does not show appropriate caution. Only individuals employed in the financial aid office of the school would routinely need, and have, access to this kind of information about a borrower (e.g., through NSLDS), and release of that information to others outside the FAO would be difficult to justify as within the scope of the routine use.
 - Disclosures of protected material pursuant to a request purportedly made by a person affiliated with a party Education regularly deals with – guarantors, contractors, schools, lenders – might warrant release only through a call-back through a telephone number on record with Education.
- **Subpoenas:** Information or records are often sought by various parties by means of subpoenas directed to the Department staff or a contractor. The regulations authorize release of records pursuant to an “order of a court of competent jurisdiction.” 34 CFR 5b.9(10). **Because subpoenas in civil suits are issued by a clerk or an attorney and not by a judge, a subpoena is not considered an order of a court within the meaning of this provision.**
 - Contractor staff may not honor a subpoena seeking protected information. The contractor should refer the subpoena to Department staff for response by the Office of General Counsel. If immediate response must be made by the contractor, the contractor should assert that Federal law bars release of the information sought.
 - **Law enforcement agencies**, on the other hand, can obtain protected information, upon proper request to the Department. Contractors should refer grand jury subpoenas and other demands for records from Federal, State or local law enforcement authorities to the Department, but these may ultimately be honored.

Collecting information

Inform individual when collecting information:

The authority for collecting principal purpose

The routine uses to be made of the information collected, and

The consequences of not providing the information

- **Collect** and retain only information that is **pertinent** to the **purpose** of the system of records and the functions for which the system is to be used..
- **Collect from the individual.** The Act requires the Department and contractor staff to **attempt** to collect information directly from the individual to the extent "**practicable**" where the information may affect the individual's rights under a Federal program. 34 CFR 5b.4(a)(2). However, the kind of information that may be realistically and reliably obtained from the individual directly may differ depending on the inquiry.
 - Unless there is good reason to believe that the individual will not provide reliable information, therefore, the information must be sought from the individual **first**.
- **Explaining authority and purposes:** Explain purpose of collecting the information when seeking information from subject individual.
 - Have copy of the system notice readily available; provide a copy to individual who wants more detailed explanation. The purpose for which information was collected varies depending on the information.
 - Explain whether providing this information is **mandatory** or **voluntary**, and the effect of refusal to provide the information. 34 CFR 5b.4(a)(3).
 - "**Mandatory**" provision of information is required under threat of penal sanction.
 - "**Voluntary**" provision of information is useful for Department **purposes or needed for a debtor to obtain a benefit or relief**.

Examples: boilerplate statements vs. oral requests:

- **Education forms:** Education typically includes a written statement of the authority for seeking the information, the principal purpose of the record in which the information would be maintained, and the routine uses for the information, and whether providing the information is mandatory or voluntary.
- **Oral information gathering:** develop a script that briefly summarizes these points: e.g.:
 - Authority for seeking information: **Title IV of the Higher Education Act of 1965, as amended**
 - Principal purpose for obtaining and using the record: **To permit servicing and collection of the loan or grant.**
 - Information **not** required, but **failure to provide will prevent Education from [arranging reasonable and affordable payments, or other appropriate action].**

Debt collector note: Note the similarity between the "debt collection purpose" warning [the debt Miranda warning] required by Fair Debt Collection Practices Act (15 U.S.C. 1692e(11)) and the disclosure required by the Privacy Act.

The FDCPA limits communication with third parties, requires consent of the debtor/subject in instances in which Privacy Act does not, and will affect, how and whether the contractor may inform third-parties regarding the purpose of the inquiry. 15 U.S.C. 1692c(b).

Coordination will be useful between written information requests and telephonic followup that can refer back to an explanation already provided in written form.

Collecting information from third parties: The requirements in the Privacy Act that the requestor explain the "intended purpose" for which the information will be used do **not** apply to information requests made to **third parties**. However, **some** court rulings have **restricted** use of information gathered from third parties **to whom the agency did not provide this explanation when it obtained the information**.

Whether an "intended purpose" statement is needed in fact will vary with the nature of the request and the party to whom the request is made. Some requests are made for self-evident purposes (e.g., asking the attorney for the debtor for copies of bankruptcy filings); the intended purpose of other information requests may be ambiguous (e.g., asking the physician to whom the debtor refers to confirm that he or she has treated the individual).

One solution in situations like the latter is to secure the debtor's express consent to **disclose** the purpose of the inquiry.

Security and accounting obligations

Establish and maintain adequate safeguards

Keep accounting of disclosures

- **Safeguards: System notice** establishes the specific security standards and procedures required for access to the records in the system. The system notices for the Student Financial Assistance Collection Files System provides:
 - **Physical access:** "All physical access to . . . the sites of Department contractors where this system of records is **maintained**, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge."
 - **Computer access:** "The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a "**need to know**" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded."

- **E-mail security:** Transmission of unencrypted Privacy-Act protected information via internet e-mail is considered by cognizant Federal agencies to be prohibited by the Privacy Act. The Department does not yet have an internet e-mail security standard.

System employees higher duty of care: Department and contractor employees whose official duties require that they refer to, maintain, service, or otherwise deal with systems of records are designated "system employees" and have a higher standard of care required under the standards of conduct. System employees must:

- (1) (a) **Be informed** with respect to their responsibilities under the Act;
- (b) Be alert to possible misuses of the system and **report to their supervisors** any potential or actual use of the system which they believe is not in compliance with the Act and regulation;
- (c) Make a disclosure of records within the [contractor] only to an employee who has a **legitimate need to know** the record in the course of his official duties;
- (d) **Maintain** records as **accurately** as practicable.
- (e) **Consult with a supervisor** prior to taking any action where they are in doubt whether such action is in conformance with the Act and regulation.

(2) Systems Employees shall not:

- (a) Disclose in any form records from a system of records except (1) with the consent or at the request of the subject individual; or (2) where its disclosure is permitted under § 5b.9 of the regulation.
 - (b) Permit unauthorized individuals to be present in controlled areas. Any unauthorized individuals observed in controlled areas shall be reported to a supervisor or to the guard force.
 - (c) Knowingly or willfully take action which might subject the Department to civil liability.
- **Accounting for disclosures:** "Accounting" obligation: The Department and the contractor must record every disclosure of a record, except disclosures intra-agency or disclosures by contractor to the Department itself. "Disclosure" is a release of record [name/ssn & personal characteristic] to third party. This "Accounting" record must be sufficient both to explain what was released and to whom it was released, and to permit any erroneous information previously released to be corrected. 34 CFR 5b.8(a)(3).

- "Accounting" includes making a written or electronic record of the following:
Date, nature, purpose of each disclosure. Name and address of entity or person to whom the disclosure was made
- "Accounting" record must be retained by Department for 5 years or the life of the record. 34 CFR 5b.9(c). DMCS Letter history screen should suffice for written disclosures made or accompanied by a system letter, so long as the letter is self-explanatory. Otherwise release should be recorded on L 102 notepad.

Civil Penalties & Damages

Civil Remedies against agency for:

Failure to permit an individual access to records in order to correct or amend individual's record

Willful or intentional violations for failure to:

keep accurate, relevant, complete, timely records

keep accounting of disclosures

comply with any other provision of Privacy Act

Court costs and attorney fees

Damages of \$1,000 or more

5 U.S.C. § 552a(g)

See: Employee Standards of Conduct

Criminal Penalties

Agency employees, and contractors and employees of contractors, commit a misdemeanor and may be fined up to \$5000 for

knowing and **willful** prohibited disclosure of information,

knowing and **willful** request for, or obtaining, record from an agency under false pretenses

[An action is **knowing** when done with **knowledge that the action is prohibited**;
an action is **willful** when done with the **intention of causing the result**]

5 U.S.C. § 552a(i)

Appendix 1

Education Department Privacy Act regulations: 34 CFR Part 5b

CODE OF FEDERAL REGULATIONS
TITLE 34--EDUCATION
SUBTITLE A--OFFICE OF THE SECRETARY,
DEPARTMENT OF EDUCATION
PART 5B--PRIVACY ACT REGULATIONS

Current through May 2, 2000; 65 FR 25454

§ 5b.1 Definitions.

As used in this part:

(a) "Access" means availability of a record to a subject individual.

(b) "Agency" means the Department of Education.

(c) "Department" means the Department of Education.

(d) "Disclosure" means the availability or release of a record to anyone other than the subject individual.

(e) "Individual" means a living person who is a citizen of the United States or an alien lawfully admitted for permanent residence. It does not include persons such as sole proprietorships, partnerships, or corporations. A business firm which is identified by the name of one or more persons is not an individual within the meaning of this part.

(f) "Maintain" means to maintain, collect, use, or disseminate when used in connection with the term "record"; and, to have control over or responsibility for a system of records when used in connection with the term "system of records."

(g) "Notification" means communication to an individual whether he is a subject individual.

(h) "Record" means any item, collection, or grouping of information about an individual that is maintained by the Department, including but not limited to the individual's education, financial transactions, medical history, and criminal or employment history and that contains his name, or an identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph. When used in this part, record means only a record which is in a system of records.

(i) "Responsible Department official" means that officer who is listed in a notice of a system of records as the system manager for a given system of records or another individual

listed in the notice of a system of records to whom requests may be made, or the designee of either such officer or individual.

(j) "Routine use" means the disclosure of a record outside the Department, without the consent of the subject individual, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the Freedom of Information Act, 5 U.S.C. 552. It does not include disclosures which are permitted to be made without the consent of the subject individual which are not compatible with the purpose for which it was collected such as disclosures to the Bureau of the Census, the General Accounting Office, or to Congress.

(k) "Secretary" means the Secretary of Education.

(l) "Statistical record" means a record maintained for statistical research or reporting purposes only and not maintained to make determinations about a particular subject individual.

(m) "Subject individual" means that individual to whom a record pertains.

(n) "System of records" means any group of records under the control of the Department from which a record is retrieved by personal identifier such as the name of the individual, number, symbol or other unique retriever assigned to the individual. Single records or groups of records which are not retrieved by a personal identifier are not part of a system of records. Papers maintained by individual employees of the Department which are prepared, maintained, or discarded at the discretion of the employee and which are not subject to the Federal Records Act, 44 U.S.C. 2901, are not part of a system of records; Provided, That such personal papers are not used by the employee or the Department to determine any rights, benefits, or privileges of individuals.

[45 FR 30808, May 9, 1980; 45 FR 37426, June 3, 1980]

§ 5b.2 Purpose and scope.

(a) This part implements section 3 of the Privacy Act of 1974, 5 U.S.C. 552a (hereinafter referred to as the Act), by establishing agency policies and procedures for the maintenance of records. This part also establishes agency policies and procedures under which a subject individual may be given notification of or access to a record pertaining to him and policies and procedures under which a subject individual may have his record corrected or amended if he believes that his record is not accurate, timely, complete, or relevant or necessary to accomplish a Department function.

(b) All components of the Department are governed by the provisions of this part. Also governed by the provisions of this part are advisory committees and councils within the meaning of the Federal Advisory Committee Act which provide advice to (1) any official or component of the Department or (2) the President and for which the Department has been delegated responsibility for providing services.

(c) Employees of the Department governed by this part include all regular and special government employees of the Department; experts and consultants whose temporary (not in excess of 1 year) or intermittent services have been procured by the Department by contract pursuant to 3109 of title 5, United States Code; volunteers where acceptance of their services are authorized by law; those individuals performing gratuitous services as permitted under conditions prescribed by the Office of Personnel Management; and, participants in work-study or training programs.

(d) This part does not:

(1) Make available to a subject individual records which are not retrieved by that individual's name or other personal identifier.

(2) Make available to the general public records which are retrieved by a subject individual's name or other personal identifier or make available to the general public records which would otherwise not be available to the general public under the Freedom of Information Act, 5 U.S.C. 552, and Part 5 of this title.

(3) Govern the maintenance or disclosure of, notification of or access to, records in the possession of the Department which are subject to

regulations of another agency, such as personnel records subject to the regulations of the Office of Personnel Management.

(4) Apply to grantees, including State and local governments or subdivisions thereof, administering federally funded programs.

(5) Make available records compiled by the Department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable constitutional principles, rules of discovery, and applicable regulations of the Department.

§ 5b.3 Policy.

It is the policy of the Department to protect the privacy of individuals to the fullest extent possible while nonetheless permitting the exchange of records required to fulfill the administrative and program responsibilities of the Department, and responsibilities of the Department for disclosing records which the general public is entitled to have under the Freedom of Information Act, 5 U.S.C. 552, and Part 5 of this title.

§ 5b.4 Maintenance of records.

(a) No record will be maintained by the Department unless:

(1) It is relevant and necessary to accomplish a Department function required to be accomplished by statute or Executive Order;

(2) It is acquired to the greatest extent practicable from the subject individual when maintenance of the record may result in a determination about the subject individual's rights, benefits or privileges under Federal programs;

(3) The individual providing the record is informed of the authority for providing the record (including whether the providing of the record is mandatory or voluntary, the principal purpose for maintaining the record, the routine uses for the record, what effect his refusal to provide the record may have on him), and if the record is not required by statute or Executive Order to be provided by the individual, he agrees to provide the record.

(b) No record will be maintained by the Department which describes how an individual exercises rights guaranteed by the First Amendment unless expressly authorized (1) by statute, or (2) by the subject individual, or (3) unless pertinent to and within the scope of an authorized law enforcement activity.

§ 5b.5 Notification of or access to records.

(a) Times, places, and manner of requesting notification of or access to a record.

(1) Any individual may request notification of a record. He may at the same time request access to any record pertaining to him. An individual may be accompanied by another individual of his choice when he requests access to a record in person; Provided, That he affirmatively authorizes the presence of such other individual during any discussion of a record to which access is requested.

(2) An individual making a request for notification of or access to a record shall address his request to the responsible Department official and shall verify his identity when required in accordance with paragraph (b)(2) of this section. At the time the request is made, the individual shall specify which systems of records he wishes to have searched and the records to which he wishes to have access. He may also request that copies be made of all or any such records. An individual shall also provide the responsible Department official with sufficient particulars to enable such official to distinguish between records on subject individuals with the same name. The necessary particulars are set forth in the notices of systems of records.

(3) An individual who makes a request in person may leave with any responsible Department official a request for notification of or access to a record under the control of another responsible Department official; Provided, That the request is addressed in writing to the appropriate responsible Department official.

(b) Verification of identity--

(1) When required. Unless an individual, who is making a request for notification of or access to a record in person, is personally known to the responsible Department official, he shall be

required to verify his identity in accordance with paragraph (b)(2) of this section if:

(i) He makes a request for notification of a record and the responsible Department official determines that the mere disclosure of the existence of the record would be a clearly unwarranted invasion of privacy if disclosed to someone other than the subject individual; or,

(ii) He makes a request for access to a record which is not required to be disclosed to the general public under the Freedom of Information Act, 5 U.S.C. 552, and Part 5 of this title.

(2) Manner of verifying identity.

(i) **An individual who makes a request in person shall provide to the responsible Department official at least one piece of tangible identification such as a driver's license, passport, alien or voter registration card, or union card to verify his identity.** If an individual does not have identification papers to verify his identity, he shall certify in writing that he is the individual who he claims to be and that he understands that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act subject to a \$5,000 fine.

(ii) Except as provided in paragraph (b)(2)(v) of this section, an individual who does not make a request in person shall submit a notarized request to the responsible Department official to verify his identity or shall certify in his request that he is the individual who he claims to be and that he understands that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act subject to a \$5,000 fine.

(iii) An individual who makes a request on behalf of a minor or legal incompetent as authorized under § 5b.10 of this part shall verify his relationship to the minor or legal incompetent, in addition to verifying his own identity, by providing a copy of the minor's birth certificate, a court order, or other competent evidence of guardianship to the responsible Department official; except that, an individual is not required to verify his relationship to the minor or legal incompetent when he is not required to verify his

own identity or when evidence of his relationship to the minor or legal incompetent has been previously given to the responsible Department official.

(iv) An individual shall further verify his identity if he is requesting notification of or access to sensitive records. Any further verification shall parallel the record to which notification or access is being sought. Such further verification may include such particulars as the individual's years of attendance at a particular educational institution, rank attained in the uniformed services, date or place of birth, names of parents, or an occupation.

(v) An individual who makes a request by telephone shall verify his identity by providing to the responsible Department official identifying particulars which parallel the record to which notification or access is being sought. If the responsible Department official determines that the particulars provided by telephone are insufficient, the requester will be required to submit the request in writing or in person. Telephone requests will not be accepted where an individual is requesting notification of or access to sensitive records.

(c) Granting notification of or access to a record.

(1) Subject to the provisions governing exempt systems in § 5b.11 of this part, a responsible Department official, who receives a request for notification of or access to a record and, if required, verification of an individual's identity, will review the request and grant notification or access to a record, if the individual requesting access to the record is the subject individual.

(2) If the responsible Department official determines that there will be a delay in responding to a request because of the number of requests being processed, a breakdown of equipment, shortage of personnel, storage of records in other locations, etc., he will so inform the individual and indicate when notification or access will be granted.

(3) Prior to granting notification of or access to a record, the responsible Department official may at his discretion require an individual making a request in person to reduce his request

to writing if the individual has not already done so at the time the request is made.

§ 5b.7 Procedures for correction or amendment of records.

(a) Any subject individual may request that his record be corrected or amended if he believes that the record is not accurate, timely, complete, or relevant or necessary to accomplish a Department function. A subject individual making a request to amend or correct his record shall address his request to the responsible Department official in writing; except that, the request need not be in writing if the subject individual makes his request in person and the responsible Department official corrects or amends the record at that time. The subject individual shall specify in each request:

(1) The system of records from which the record is retrieved;

(2) The particular record which he is seeking to correct or amend;

(3) Whether he is seeking an addition to or a deletion or substitution of the record; and,

(4) His reasons for requesting correction or amendment of the record.

(b) A request for correction or amendment of a record will be acknowledged within 10 working days of its receipt unless the request can be processed and the subject individual informed of the responsible Department official's decision on the request within that 10 day period.

(c) If the responsible Department official agrees that the record is not accurate, timely, or complete based on a preponderance of the evidence, the record will be corrected or amended. The record will be deleted without regard to its accuracy, if the record is not relevant or necessary to accomplish the Department function for which the record was provided or is maintained. In either case, the subject individual will be informed in writing of the correction, amendment, or deletion and, if accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(d) If the responsible Department official does not agree that the record should be corrected or amended, the subject individual will be

informed in writing of the refusal to correct or amend the record. He will also be informed that he may appeal the refusal to correct or amend his record § 5b.8 of this part.

(e) Requests to correct or amend a record governed by the regulation of another government agency, e.g., Office of Personnel Management, Federal Bureau of Investigation, will be forwarded to such government agency for processing and the subject individual will be informed in writing of the referral.

§ 5b.8 Appeals of refusals to correct or amend records.

(a) Processing the appeal.

(1) A subject individual who disagrees with a refusal to correct or amend his record may appeal the refusal in writing. All appeals shall be made to the Secretary.

(2) An appeal will be completed within 30 working days from its receipt by the appeal authority; except that, the appeal authority may for good cause extend this period for an additional 30 days. Should the appeal period be extended, the subject individual appealing the refusal to correct or amend the record will be informed in writing of the extension and the circumstances of the delay. The subject individual's request to amend or correct the record, the responsible Department official's refusal to correct or amend, and any other pertinent material relating to the appeal will be reviewed. No hearing will be held.

(3) If the appeal authority agrees that the record subject to the appeal should be corrected or amended, the record will be amended and the subject individual will be informed in writing of the correction or amendment. Where an accounting was made of prior disclosures of the record, all previous recipients of the record will be informed of the corrective action taken.

(4) If the appeal is denied, the subject individual will be informed in writing:

(i) Of the denial and the reasons for the denial;

(ii) That he has a right to seek judicial review of the denial; and,

(iii) That he may submit to the responsible Department official a concise statement of disagreement to be associated with

the disputed record and disclosed whenever the record is disclosed.

(b) Notation and disclosure of disputed records. Whenever a subject individual submits a statement of disagreement to the responsible Department official in accordance with paragraph (a)(4)(iii) of this section, the record will be noted to indicate that it is disputed. In any subsequent disclosure, a copy of the subject individual's statement of disagreement, will be disclosed with the record. If the responsible Department official deems it appropriate, a concise statement of the appeal authority's reasons for denying the subject individual's appeal may also be disclosed with the record. While the subject individual will have access to this statement of reasons, such statement will not be subject to correction or amendment. Where an accounting was made of prior disclosures of the record, all previous recipients of the record will be provided a copy of the subject individual's statement of disagreement, as well as the statement, if any, of the appeal authority's reasons for denying the subject individual's appeal.

§ 5b.9 Disclosure of records.

(a) Consent to disclosure by a subject individual.

(1) Except as provided in paragraph (b) of this section authorizing disclosures of records without consent, no disclosure of a record will be made without the consent of the subject individual. In each case the consent, whether obtained from the subject individual at the request of the Department or whether provided to the Department by the subject individual on his own initiative, shall be in writing. The consent shall specify the individual, organizational unit or class of individuals or organizational units to whom the record may be disclosed, which record may be disclosed and, where applicable, during which time frame the record may be disclosed (e.g., during the school year, while the subject individual is out of the country, whenever the subject individual is receiving specific services). A blanket consent to disclose all of a subject individual's records to unspecified individuals or organizational units will not be honored. The subject individual's identity and, where applicable

(e.g., where a subject individual gives consent to disclosure of a record to a specific individual), the identity of the individual to whom the record is to be disclosed shall be verified.

(2) A parent or guardian of any minor is not authorized to give consent to a disclosure of the minor's medical record.

(b) Disclosures without the consent of the subject individual. The disclosures listed in this paragraph may be made without the consent of the subject individual. Such disclosures are:

(1) To those officers and employees of the Department who have a need for the record in the performance of their duties. The responsible Department official may upon request of any officer or employee, or on his own initiative, determine what constitutes legitimate need.

(2) Required to be disclosed under the Freedom of Information Act, 5 U.S.C. 552, and Part 5 of this title.

(3) For a routine use as defined in paragraph (j) of § 5b.1. Routine uses will be listed in any notice of a system of records. Routine uses published in Appendix B are applicable to more than one system of records. Where applicable, notices of systems of records may contain references to the routine uses listed in Appendix B. Appendix B will be published with any compendium of notices of systems of records.

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13 U.S.C.

(5) To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; Provided, That, the record is transferred in a form that does not identify the subject individual.

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value.

(7) To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the

United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of such government agency or instrumentality has submitted a written request to the Department specifying the record desired and the law enforcement activity for which the record is sought.

(8) To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject individual.

(9) To either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee.

(10) To the Comptroller General, or any of the Comptroller General's authorized representatives, in the course of the performance of the duties of the General Accounting Office.

(11) Pursuant to the order of a court of competent jurisdiction.

(c) Accounting of disclosures.

(1) An accounting of all disclosures of a record will be made and maintained by the Department for 5 years or for the life of the record, whichever is longer; except that, such an accounting will not be made:

(i) For disclosures under paragraphs (b)(1) and (2) of this section; and,

(ii) For disclosures made with the written consent of the subject individual.

(2) The accounting will include:

(i) The date, nature, and purpose of each disclosure; and

(ii) The name and address of the person or entity to whom the disclosure is made.

(3) Any subject individual may request access to an accounting of disclosures of a record. The subject individual shall make a request for access to an accounting in accordance with the procedures in § 5b.5 of this part. A subject individual will be granted access to an accounting of the disclosures of a record in accordance with the procedures of this part which govern access to the related record. Access to an accounting of a disclosure of a record made under paragraph

(b)(7) of this section may be granted at the discretion of the responsible Department official.

§ 5b.10 Parents and guardians.

For the purpose of this part, a parent or guardian of any minor or the legal guardian or any individual who has been declared incompetent due to physical or mental incapacity or age by a court of competent jurisdiction is authorized to act on behalf of an individual or a subject individual. Except as provided in paragraph (b)(2) of § 5b.5, of this part governing procedures for verifying an individual's identity, an individual authorized to act on behalf of a minor or legal incompetent will be viewed as if he were the individual or subject individual.

§ 5b.11 Exempt systems.

(a) General policy. The Act permits an agency to exempt certain types of systems of records from some of the Act's requirements. It is the policy of the Department to exercise authority to exempt systems of records only in compelling cases.

(b) Specific systems of records exempted under (j)(2). The Department exempts the Investigative Files of the Inspector General ED/OIG (18-10-0001) system of records from the following provisions of 5 U.S.C. 552a and this part:

(1) 5 U.S.C. 552a(c)(3) and § 5b.9(a)(1) and (c)(3) of this part, regarding access to an accounting of disclosures of a record.

(2) 5 U.S.C. 552a(c)(4) and §§ 5b.7(c) and 5b.8(b) of this part, regarding notification to outside parties and agencies of correction or notation of dispute made in accordance with 5 U.S.C. 552a(d).

(3) 5 U.S.C. 552a(d) (1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and 5b.8 of this part, regarding notification or access to records and correction or amendment of records.

(4) 5 U.S.C. 552a(e)(1) and § 5b.4(a)(1) of this part, regarding maintaining only relevant and necessary information.

(5) 5 U.S.C. 552a(e)(2) and § 5b.4(a)(2) of this part, regarding collection of information from the subject individual.

(6) 5 U.S.C. 552a(e)(3) and § 5b.4(a)(3) of this part, regarding notice to individuals asked to provide information to the Department.

(7) 5 U.S.C. 552a(e)(4) (G), (H), and (I), regarding inclusion of information in the system notice about procedures for notification, access, correction, and source of records.

(8) 5 U.S.C. 552a(e)(5), regarding maintaining records with requisite accuracy, relevance, timeliness, and completeness.

(9) 5 U.S.C. 552a(e)(8), regarding service of notice on subject individual if a record is made available under compulsory legal process if that process becomes a matter of public record.

(10) 5 U.S.C. 552a(g), regarding civil remedies for violation of the Privacy Act.

(c) Specific systems of records exempted under (k)(2).

(1) The Department exempts the Investigative Files of the Inspector General ED/OIG (18-10-0001) from the following provisions of 5 U.S.C. 552a and this part to the extent that the system of records consists of investigatory material compiled for law enforcement purposes:

(i) 5 U.S.C. 552a(c)(3) and § 5b.9(c)(3) of this part, regarding access to an accounting of disclosures of records.

(ii) 5 U.S.C. 552a(d) (1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and 5b.8 of this part, regarding notification of and access to records and correction or amendment of records.

(iii) 5 U.S.C. 552a(e)(1) and § 5b.4(a)(1) of this part, regarding the requirement to maintain only relevant and necessary information.

(iv) 5 U.S.C. 552a(e)(4) (G), (H), and (I), regarding inclusion of information in the system notice about procedures for notification, access, correction, and source of records.

(2) The Department exempts the Complaint Files and Log, Office for Civil Rights (18-08-0002) from the following provisions of 5 U.S.C. 552a and this part:

(i) 5 U.S.C. 552a(c)(3) and § 5b.9(c)(3) of this part, regarding access to an accounting of disclosures of records.

(ii) 5 U.S.C. 552a(d) (1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and 5b.8 of this

part, regarding notification of and access to records and correction or amendment of records.

(iii) 5 U.S.C. 552a(e)(4) (G) and (H), regarding inclusion of information in the system notice about procedures for notification, access, and correction of records.

(d) Specific systems of records exempted under (k)(5).

(1) The Department exempts the Investigatory Material Compiled for Personnel Security and Suitability Purposes (18-10-0002) system of records from the following provisions of 5 U.S.C. 552a and this part:

(i) 5 U.S.C. 552a(c)(3) and § 5b.9(c)(3) of this part, regarding access to an accounting of disclosures of records.

(ii) 5 U.S.C. 552a(d) (1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and 5b.8 of this part, regarding notification of and access to records and correction or amendment of records.

(iii) 5 U.S.C. 552a(e)(4) (G) and (H), regarding inclusion of information in the system notice about procedures for notification, access, and correction of records.

(2) The Department exempts the Suitability for Employment Records (18-11-0020) from the following provisions of 5 U.S.C. 552a and this part:

(i) 5 U.S.C. 552a(c)(3) and § 5b.9(c)(3) of this part, regarding access to an accounting of disclosures of records.

(ii) 5 U.S.C. 552a(d) (1) through (4) and (f) and §§ 5b.5(a)(1) and (c), 5b.7, and 5b.8 of this part, regarding notification of and access to records and correction or amendment of records.

(iii) 5 U.S.C. 552a(e)(4) (G) and (H), regarding inclusion of information in the system notice about procedures for notification, access, and correction of records.

(e) Basis for exemptions taken under (j)(2), (k)(2), and (k)(5). The reason the Department took each exemption described in this section is stated in the preamble for the final rulemaking document under which the exemption was promulgated. These final rulemaking documents were published in the Federal Register and may be obtained from the Department of Education by mailing a request to the following address: U.S. Department of Education, Privacy

Act Officer, Information Management Branch, Washington, DC 20202-4753.

(f) Notification of or access to records in exempt systems of records.

(1) If a system of records is exempt under this section, an individual may nonetheless request notification of or access to a record in that system. An individual shall make requests for notification of or access to a record in an exempt system or records in accordance with the procedures of § 5b.5 of this part.

(2) An individual will be granted notification of or access to a record in an exempt system but only to the extent that notification or access would not reveal the identity of a source who furnished the record to the Department under an express promise, and, prior to September 27, 1975, an implied promise, that his identity would be held in confidence if--

(i) The record is in a system of records or that portion of a system of records that is exempt under subsection (k)(2), but not under subsection (j)(2), of the Act and the individual has been, as a result of the maintenance of the record, denied a right, privilege, or benefit to which he or she would otherwise be eligible; or

(ii) The record is in a system of records that is exempt under subsection (k)(5) of the Act.

(3) If an individual is not granted notification of or access to a record in a system of records exempt under subsections (k)(2) (but not under subsection (j)(2)) and (k)(5) of the Act in accordance with this paragraph, he or she will be informed that the identity of a confidential source would be revealed if notification of or access to the record were granted to the individual.

(g) Discretionary actions by the responsible Department official. Unless disclosure of a record to the general public is otherwise prohibited by law, the responsible Department official may, in his or her discretion, grant notification of or access to a record in a system of records that is exempt under this section. Discretionary notification of or access to a record in accordance with this paragraph will not be a precedent for discretionary notification of or access to a similar or related record and will not obligate the responsible Department official to exercise his or her discretion to grant notification

of or access to any other record in a system of records that is exempt under this section.

[48 FR 38820, Aug. 26, 1983; 58 FR 44424, Aug. 20, 1993]

§ 5b.12 Contractors.

(a) All contracts entered into on or after September 27, 1975 which require a contractor to maintain or on behalf of the Department to maintain, a system of records to accomplish a Department function must contain a provision requiring the contractor to comply with the Act and this part.

(b) All unexpired contracts entered into prior to September 27, 1975 which require the contractor to maintain or on behalf of the Department to maintain, a system of records to accomplish a Department function will be amended as soon as practicable to include a provision requiring the contractor to comply with the Act and this part. All such contracts must be so amended by July 1, 1976 unless for good cause the appeal authority identified in § 5b.8 of this part authorizes the continuation of the contract without amendment beyond that date.

(c) A contractor and any employee of such contractor shall be considered employees of the Department only for the purposes of the criminal penalties of the Act, 5 U.S.C. 552a(i), and the employee standards of conduct listed in Appendix A of this part where the contract contains a provision requiring the contractor to comply with the Act and this part.

(d) This section does not apply to systems of records maintained by a contractor as a result of his management discretion, e.g., the contractor's personnel records.

§ 5b.13 Fees.

(a) Policy. Where applicable, fees for copying records will be charged in accordance with the schedule set forth in this section. Fees may only be charged where an individual requests that a copy be made of the record to which he is granted access. No fee may be charged for making a search of the system of records whether

the search is manual, mechanical, or electronic. Where a copy of the record must be made in order to provide access to the record (e.g., computer printout where no screen reading is available), the copy will be made available to the individual without cost.

(b) Fee schedule. The fee schedule for the Department is as follows:

(1) Copying of records susceptible to photocopying--\$.10 per page.

(2) Copying records not susceptible to photocopying (e.g., punch cards or magnetic tapes)--at actual cost to be determined on a case-by-case basis.

(3) No charge will be made if the total amount of copying does not exceed \$25.

APPENDIX B TO PART 5b— ROUTINE USES APPLICABLE TO MORE THAN ONE SYSTEM OF RECORDS MAINTAINED BY ED

(1) In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(2) Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

(3) In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(4) A record from this system of records may be disclosed as a "routine use" to a federal, state or local agency maintaining civil, criminal or other relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the

hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

(5) In the event that a system of records maintained by this agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether state or local charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(6) Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

(7) Where a contract between a component of the Department and a labor organization recognized under E.O. 11491 provides that the agency will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed to such organization.

(8) Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records.

(9) The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(10) To individuals and organizations, deemed qualified by the Secretary to carry out specific research solely for the purpose of carrying out such research.

(11) Disclosures in the course of employee discipline or competence determination proceedings.

[45 FR 30808, May 9, 1980; 45 FR 37426, June 3, 1980]

Appendix 2

Employee standards of conduct

CODE OF FEDERAL REGULATIONS
TITLE 34--EDUCATION
SUBTITLE A--OFFICE OF THE
SECRETARY, DEPARTMENT OF
EDUCATION
PART 5B--PRIVACY ACT
REGULATIONS
Current through May 2, 2000; 65 FR 25454

APPENDIX A TO PART 5b--EMPLOYEE
STANDARDS OF CONDUCT

(a) General. All employees are required to be aware of their responsibilities under the Privacy Act of 1974, 5 U.S.C. 552a. Regulations implementing the Act are set forth in 34 CFR 5b. Instruction on the requirements of the Act and regulation shall be provided to all new employees of the Department. In addition, supervisors shall be responsible for assuring that employees who are working with systems of records or who undertake new duties which require the use of systems of records are informed of their responsibilities. Supervisors shall also be responsible for assuring that all employees who work with such systems of records are periodically reminded of the requirements of the Act and are advised of any new provisions or interpretations of the Act.

(b) Penalties. (1) All employees must guard against improper disclosure of records which are governed by the Act. Because of the serious consequences of improper invasions of personal privacy, employees may be subject to disciplinary action and criminal prosecution for knowing and willful violations of the Act and regulation. In addition, employees may also be subject to disciplinary action for unknowing or unwillful violations, where the employee had notice of the provisions of the Act and regulations and failed to inform himself sufficiently or to conduct himself in

accordance with the requirements to avoid violations.

(2) The Department may be subjected to civil liability for the following actions undertaken by its employees:

(a) Making a determination under the Act and §§ 5b.7 and 5b.8 of the regulation not to amend an individual's record in accordance with his request, or failing to make such review in conformity with those provisions;

(b) Refusing to comply with an individual's request for notification of or access to a record pertaining to him;

(c) Failing to maintain any record pertaining to any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such a record, and consequently a determination is made which is adverse to the individual; or

(d) Failing to comply with any other provision of the Act or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual.

(3) "An employee may be personally subject to criminal liability as set forth below and in 5 U.S.C. 552a (i):

(a) Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by the Act or by rules or regulations established thereunder, and who, knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000."

(b) "Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements [of the Act] shall be guilty of a misdemeanor and fined not more than \$5,000."

(c) **Rules Governing Employees Not Working With Systems of Records.** Employees whose duties do not involve working with systems of records will not generally disclose to any one, without specific authorization from their supervisors, records pertaining to employees or other individuals which by reason of their official duties are available to them. Notwithstanding the above, the following records concerning Federal employees are a matter of public record and no further authorization is necessary for disclosure:

- (1) Name and title of individual.
- (2) Grade classification or equivalent and annual rate of salary.
- (3) Position description.
- (4) Location of duty station, including room number and telephone number.

In addition, employees shall disclose records which are listed in the Department's Freedom of Information Regulation as being available to the public. Requests for other records will be referred to the responsible Department official. This does not preclude employees from discussing matters which are known to them personally, and without resort to a record, to official investigators of Federal agencies for official purposes such as suitability checks, Equal Employment Opportunity investigations, adverse action proceedings, grievance proceedings, etc.

(d) Rules governing employees whose duties require use or reference to systems of records. Employees whose official duties require that they refer to, maintain, service, or otherwise deal with

systems of records (hereinafter referred to as "Systems Employees") are governed by the general provisions. In addition, extra precautions are required and systems employees are held to higher standards of conduct.

(1) Systems Employees shall:

(a) Be informed with respect to their responsibilities under the Act;

(b) Be alert to possible misuses of the system and report to their supervisors any potential or actual use of the system which they believe is not in compliance with the Act and regulation;

(c) Make a disclosure of records within the Department only to an employee who has a legitimate need to know the record in the course of his official duties;

(d) Maintain records as accurately as practicable.

(e) Consult with a supervisor prior to taking any action where they are in doubt whether such action is in conformance with the Act and regulation.

(2) Systems Employees shall not:

(a) Disclose in any form records from a system of records except (1) with the consent or at the request of the subject individual; or (2) where its disclosure is permitted under § 5b.9 of the regulation.

(b) Permit unauthorized individuals to be present in controlled areas. Any unauthorized individuals observed in controlled areas shall be reported to a supervisor or to the guard force.

(c) Knowingly or willfully take action which might subject the Department to civil liability.

(d) Make any arrangements for the design development, or operation of any system of records without making reasonable effort to provide that the system can be maintained in accordance with the Act and regulation.

(e) Contracting officers. In addition to any applicable provisions set forth above, those employees whose official duties involve entering into contracts on behalf of the Department shall also be governed by the following provisions:

(1) Contracts for design, or development of systems and equipment. No contract for the design or development of a system of records, or for equipment to store, service or maintain a system of records shall be entered into unless the contracting officer has made reasonable effort to ensure that the product to be purchased is capable of being used without violation of the Act or regulation. Special attention shall be given to provision of physical safeguards.

(2) Contracts for the operation of systems and equipment. No contract for the design or development of a system of whom he feels appropriate, of all proposed contracts providing for the operation of systems of records shall be made prior to execution of the contracts to determine whether operation of the system of records is for the purpose of accomplishing a Department function. If a determination is made that the operation of the system is to accomplish a Department function, the contracting officer shall be responsible for including in the contract appropriate provisions to apply the provisions of the Act and regulation to the system, including prohibitions against improper

release by the contractor, his employees, agents, or subcontractors.

(3) Other service contracts. Contracting officers entering into general service contracts shall be responsible for determining the appropriateness of including provisions in the contract to prevent potential misuse (inadvertent or otherwise) by employees, agents, or subcontractors of the contractor.

(f) Rules Governing Responsible Department Officials. In addition to the requirements for Systems Employees, responsible Department officials shall:

(1) Respond to all requests for notification of or access, disclosure, or amendment of records in a timely fashion in accordance with the Act and regulation;

(2) Make any amendment of records accurately and in a timely fashion;

(3) Inform all persons whom the accounting records show have received copies of the record prior to the amendments of the correction; and

(4) Associate any statement of disagreement with the disputed record, and

(a) Transmit a copy of the statement to all persons whom the accounting records show have received a copy of the disputed record, and

(b) Transmit that statement with any future disclosure.

Appendix 3: System notices:

18-11-07 Student Financial Assistance Collection Files
18-11-06 National Student Loan Data System (NSLDS).
18-11-05 Title IV Program Files

Source: 64 Fed. Reg. 30166, June 4, 1999, as amended 64 Fed. Reg. 72407, Dec. 27, 1999.

18-11-07

SYSTEM NAME: Student Financial Assistance Collection Files.

SECURITY CLASSIFICATION: None.

SYSTEM LOCATIONS:

Program Systems Support, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4640, ROB-3, Washington, DC 20202-5258. See the Appendix to this system notice for additional system locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on those individuals who have student loans made under the Federal Family Education Loan (FFEL) Program: Stafford Loans (formerly the Guaranteed Student Loan Program (GSL), including Federally Insured Student Loans (FISL)), Supplemental Loans for Students (SLS), PLUS Loans (formerly Parental Loans for Undergraduate Students), and Consolidation Loans; the William D. Ford Federal Direct Student Loan (Direct Loan) Program (formerly known as the Stafford/Ford Loan [[Page 30167]] Program (SFLP), Federal Direct Unsubsidized Stafford/Ford Loan Program, Federal Direct Consolidation Loan, and Federal Direct Plus Loans; and Federal Perkins Loans (formerly National Direct/Defense Student Loans (NDSL)) and those who are awarded grants under the Pell Grant Program and the Supplemental Education Opportunity Grant Program (SEOG).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records regarding an applicant's demographic background; loan, repayment history; and educational status; family income; social security number; address and telephone numbers; employment information on borrowers and co-signers; collection activity on accounts; default claim number; amount of claim; information pertaining to locating a borrower; collection and repayment obligation; forbearance; cancellation; disability; deferment; administrative wage garnishment; bankruptcy, death; close school discharge; hearings; photocopy of all promissory notes; account collection records; administrative resolutions and litigations; and parents' and students' personal identification numbers assigned by the Department.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Higher Education Act of 1965, Titles IV-A, IV-B, IV-D, and IV-E, as amended, (20 U.S.C. 1070-1070a-6, 1070b-1070b-3, 1071-1087-2, 1087a, and 1087aa-hh).

PURPOSE(S):

The information contained in the records maintained in this system is used for the purposes of determining program eligibility and benefits, verifying the identity of the individual, enforcing the conditions and terms of the loan or grant, permitting the servicing and collecting of the loan or grant, counseling the individual in repayment efforts, investigating possible fraud and verifying

compliance with program regulations, locating a delinquent or defaulted debtor or locating a recipient owing an overpayment on a grant, initiating legal action against an individual involved in program fraud, abuse, or noncompliance, and enforcing Title IV requirements against schools, lenders, and guaranty agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) Program Disclosures. The Department may disclose information from this system to Federal, State, or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, guaranty agencies, educational and financial agencies or institutions, consumer reporting agencies, contractors and hearing officials for the following purposes:

- (1) To verify the identity of the applicant;
- (2) to determine program eligibility and benefits;
- (3) to facilitate default reduction efforts by program participants;
- (4) to enforce the conditions or terms of the loan;
- (5) to permit servicing, collecting, or accepting the loan;
- (6) to counsel the borrower in repayment efforts;
- (7) to investigate possible fraud and verify compliance with program regulations;
- (8) to locate a delinquent or defaulted borrower;
- (9) to issue collection letters;
- (10) to locate a missing borrower;
- (11) to collect in-file history information to determine assets and ability to pay;
- (12) to determine last known address;
- (13) to conduct a salary offset hearing under 34 CFR part 31;
- (14) to prepare for litigation or to litigate collection service and audit;
- (15) to initiate a limitation, suspension, and termination (LS&T) or debarment or suspension action;
- (16) to ensure Title IV requirements are met by schools, lenders, and guaranty agencies;
- (17) to verify death;
- (18) to conduct credit checks; and
- (19) to investigate complaints, update files, and correct errors.

(2) Feasibility Study Disclosure. The Department may disclose information from this system of records to other Federal agencies and to guaranty agencies to determine whether computer matching programs should be conducted by the Department regarding an individual's application for or participation in any grant or loan program administered by the Department. Purposes of these

disclosures may be to determine program eligibility and benefits, facilitate default reduction efforts, enforce the conditions and terms of a loan or grant, permit the servicing and collecting of the loan or grant, enforce debarment, suspension, and exclusionary actions, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

(3) Disclosure for Use by Other Law Enforcement Agencies. The Department may disclose information to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility within the receiving entity's jurisdiction.

(4) Enforcement Disclosure. In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(5) Litigation and Alternative Dispute Resolution (ADR) Disclosures.

(a) Introduction. In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

- (i) The Department of Education, or any component of the Department; or
- (ii) Any Department employee in his or her official capacity; or
- (iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;
- (iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or
- (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) Disclosure to the DOJ. If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) Administrative Disclosures. If the Department determines that disclosure of certain records to an adjudicative [[Page 30168]] body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) Parties, counsels, representatives and witnesses. If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(6) Employment, Benefit, and Contracting Disclosure.

(a) **For Decisions by the Department.** The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) **For Decisions by Other Public Agencies and Professional Organizations.** The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(7) Employee Grievance, Complaint or Conduct Disclosure. The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: complaint, grievance, discipline or competence determination proceedings. The disclosure may only be made during the course of the proceeding.

(8) Labor Organization Disclosure. A component of the Department may disclose records to a labor organization if a contract between the component and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(9) Freedom of Information Act (FOIA) Advice Disclosure. The Department may disclose records to the Department of Justice and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(10) Disclosure to the Department of Justice (DOJ). The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(11) Contract Disclosure. If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(12) Research Disclosure. The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(13) Congressional Member Disclosure. The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in either hardcopy, microfilm, magnetic tape, or other electronic media.

RETRIEVABILITY:

Records are retrievable by Social Security number.

SAFEGUARDS:

All physical access to the Department's site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system utilized by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records of individual loans may be destroyed five (5) years after cancellation, forgiveness or final repayment of the loan. Records of Federal Supplemental Educational Opportunity Grant (SEOG) recipients may be destroyed five (5) years after the fiscal operations report is filed. Records of Federal Pell Grant recipients may be destroyed five (5) years after the initial award year has ended, as set forth in appropriate record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Systems Support, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., [[Page 30169]] Room 4640, ROB-3, Washington, DC 20202-5258. See the Appendix at the end of this system notice for additional system managers.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, date of birth and Social Security number. Requests must meet the requirements of the regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager and provide information as described in the notification procedure. Requests by an individual for access to a record must meet the requirements of the regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records, contact the system manager with the information described in the notification procedure, identify the specific items to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from reports from borrowers and their families, lenders, schools, examining or treating physicians, employers, credit agencies, Federal and State governmental agencies, and State or private nonprofit guaranty agencies. However, lenders and guaranty agencies are not a source of information for participants in the Federal Direct Student Loan Program, since the Department maintains individual records of borrowers for this program.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix to 18-11-07

Additional System Managers and System Locations

Raytheon/E-Systems, 6201 I-30, Greenville, TX 75402. Assistant Regional administrator, U.S. Department of Education, Region IV, Division of Claims and Collections, Office of Student Financial Assistance, 61 Forsyth Street, SW., Rm. 19T89, Atlanta, GA 30303.

Assistant Regional Administrator, U.S. Department of Education, Region V, Division of Claims and Collections, Office of Student Financial Assistance, 111 North Canal Street, Suite 1009, Chicago, Illinois 60605.

Assistant Regional Administrator, U.S. Department of Education, Region IX, Division of Claims and Collections, Office of Student Financial Assistance, 50 United Nations Plaza, Room 250, San Francisco, California 94102.

Source: 64 Fed. Reg. 72395, Dec. 27, 1999

18-11-06

SYSTEM NAME: National Student Loan Data System (NSLDS).

SECURITY CLASSIFICATION: None.

SYSTEM LOCATION: Computer Sciences Corporation, 71 Deerfield Lane, Meriden, CT 06450-7151.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: The NSLDS contains records on borrowers who have applied for and received loans under the William D. Ford Federal Direct Loan Program, the Federal Family Education Loan (FFEL) Program, the Federal Insured Student Loan (FISL) Program, and the Federal Perkins Loan Program (including National Defense Student Loans, National Direct Student Loans, Perkins Expanded Lending and Income Contingent Loans). The NSLDS also contains records on recipients of Federal Pell Grants and persons who owe an overpayment on a Federal Pell Grant, Federal Supplemental Educational Opportunity Grant or Federal Perkins Loans.

CATEGORIES OF RECORDS IN THE SYSTEM: The NSLDS contains records regarding: (1) Student/borrower identifier information including Social Security number, date of birth and name; (2) the information on borrowers' loans covering the entire life cycle of a loan from origination through final payment, cancellation, discharge or other final disposition including details regarding each loan received by a student such as information on loan amounts, educational status, disbursements, balances, loan status, collections, claims, deferments, refunds and cancellations; (3) enrollment information including school(s) attended, anticipated completion date, enrollment status and effective dates; (4) student demographic information such as course of study, dependency, citizenship, gender, data on family income, expected family contribution, and address; (5) Federal Pell Grant amounts and dates; and (6) Federal Pell Grant, Federal Supplemental Educational Opportunity Grant, and Federal Perkins Loan Program overpayments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 20 U.S.C. 1092b (1993).

PURPOSE(S): This system of records is used for the following purposes:

- (1) To provide pre-screening and post-screening for Title IV aid eligibility;
- (2) to provide default rate calculations for educational institutions, guaranty agencies, and lenders;
- (3) to report changes in student/borrower enrollment status via a Student Status Confirmation Report (SSCR) or other means;
- (4) to prepare electronic financial aid history information;
- (5) to assist guaranty agencies, educational institutions, financial institutions and servicers collect loans;
- (6) to provide audit and program review planning;
- (7) to support research studies and policy development;

- (8) to conduct budget analysis and development;
- (9) to track loan transfers from one entity to another;
- (10) to assess Title IV Program administration of guaranty agencies, educational institutions, financial institutions and servicers;
- (11) to track loan borrowers and overpayment debtors;
- (12) to provide information that supports Credit Reform Act of 1992 requirements;
- (13) to provide information to track refunds/cancellations; and
- (14) to assist in the collection of debts owed to the Department under Title IV of the Higher Education Act, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS: The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) Program Purposes. The Department may disclose records for the following program purposes:
[[Page 72396]]

- (a) To verify the identity of the applicant involved, the accuracy of the record, or to assist with the determination of program eligibility and benefits, the Department may disclose records to the applicant, guaranty agencies, educational institutions, financial institutions and servicers, and to Federal and State agencies;
- (b) To provide default rate calculations, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to State agencies;
- (c) To provide a standardized method for educational institutions to efficiently submit student enrollment status information, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers;
- (d) To provide financial aid history information, the Department may disclose records to educational institutions and servicers;
- (e) To assist loan holders in the collection of loans and to support pre-claims/supplemental pre-claims assistance, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State or Local agencies;
- (f) To support auditors and program reviewers in planning and carrying out their assessments of Title IV Program compliance, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State and Local agencies;
- (g) To support researchers and policy analysts, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State and Local agencies; using safeguards to ensure compliance with the Privacy Act, disclosures may also be made to other researchers and policy analysts not associated with guaranty agencies, educational institutions, financial institutions or servicers;

- (h) To support budget analysts in the development of budget needs and forecasts, the Department may disclose records to Federal and State agencies;
- (i) To assist in locating holders of loan(s), the Department may disclose records to students/borrowers, guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State or Local agencies;
- (j) To assist analysts in assessing Title IV Program administration of guaranty agencies, educational institutions, financial institutions and servicers, the Department may disclose records to Federal and State agencies;
- (k) To assist loan holders in locating borrowers and overpayment holders in locating debtors, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal agencies;
- (l) To assist with meeting Credit Reform Act of 1992 requirements, the Department may disclose records to Federal agencies;
- (m) To assist program administrators with tracking refunds and cancellations, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal and State agencies;
- (n) To enforce the terms of a loan, assist in the collection of a loan and assist in the collection of an aid overpayment, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State, or Local agencies.

(2) Litigation and Alternative Dispute Resolution (ADR) Disclosures.

- (a) Introduction. In the event that one of the parties listed below is involved in litigation, or has an interest in litigation, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:
 - (i) The Department, or any component of the Department; or
 - (ii) Any Department employee in his or her official capacity; or
 - (iii) Any employee of the Department in his or her individual capacity where the Department of Justice has agreed to provide or arrange for representation for the employee; or
 - (iv) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employee; or (v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.
- (b) Disclosure to the Department of Justice. If the Department determines that disclosure of certain records to the Department of Justice or attorneys engaged by the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the Department of Justice.
- (c) Administrative Disclosures. If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, individual or entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, individual or entity.
- (d) Parties, counsels, representatives and witnesses. If the Department determines that disclosure of certain records to an opposing counsel, representative or witness in an administrative proceeding is

relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(3) Enforcement Disclosure. In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(4) Contract Disclosure. If the Department contracts with an entity for the purpose of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records as a routine use to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(5) Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support. The Department may disclose individually identifiable information to OMB as necessary to fulfill CRA requirements. (These requirements currently include transfer of data on lender interest benefits and special allowance payments, defaulted loan balances, and supplemental pre-claims assistance payments information.).

(6) Employee Grievance, Complaint or Conduct Disclosure. If a record is relevant and necessary to an employee grievance, complaint, or disciplinary action, the Department may disclose the record in the course of investigation, [[Page 72397]] fact-finding, or adjudication to any witness, designated fact-finder, mediator, or other person designated to resolve issues or decide the matter.

(7) Labor Organization Disclosure. Where a contract between a component of the Department and a labor organization recognized under 5 U.S.C., Chapter 71, provides that the Department will disclose personal records relevant and necessary to the organization's mission, records in this system of records may be disclosed as a routine use to such an organization.

(8) Freedom of Information Act (FOIA) Advice Disclosure. In the event that the Department deems it desirable or necessary in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(9) Disclosure to the Department of Justice. The Department may disclose information from this system of records as a routine use to the Department of Justice to the extent necessary for obtaining its advice on any matter relevant to an audit, inspection, or other inquiry related to the Department's responsibilities under Title IV of the Higher Education Act of 1965.

(10) Congressional Member Disclosure. The Department may disclose information from this system of records to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual; the Member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES: Disclosure pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer-reporting agency information regarding a claim which is determined to be valid and overdue as follows: (1) The name, taxpayer identification number and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(f). A consumer reporting agency to which these the Department may disclose records is defined at 15 U.S.C. 1681a(f), and 31 U.S.C. 3701 (a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISCLOSING OF RECORDS IN THE SYSTEM:STORAGE: The records are maintained on magnetic tape and computer disk media.

RETRIEVABILITY: Student/Borrower data are retrieved by matching Social Security number and, as needed to reliably identify an individual, name and date of birth.

SAFEGUARDS: All physical access to the sites of the contractor where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention by use of software that requires user access to be defined to specific online functions. This security system limits data access to users on a ``need to know" basis and controls individual users' ability to access and alter records within the system. All users of this system are given a unique user ID with a personal identifier. Most data is loaded into NSLDS via a batch process. The security utilized ensures that only data from authorized data providers can add or update records in NSLDS.

RETENTION AND DISPOSAL: Records of individual closed loans and aid overpayments will be transferred to tape/disk for retention and storage at the system location. All records are retained permanently due to research needs, budget projections, and legislative analysis.

SYSTEM MANAGER AND ADDRESS: Director, Program Systems Service, U.S. Department of Education, Office of Student Financial Assistance, 400 Maryland Ave., SW, ROB-3, room 4640, Washington, DC 20202.

NOTIFICATION PROCEDURE: If you wish to determine whether a record exists regarding you in this system of records, you must provide the system manager your name, date of birth, Social Security number, and the name of the school or lender from which the loan or grant was obtained.

Requests for notification must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES: If you wish to gain access to a record in this system, you must contact the system manager and provide information as described in the notification procedures. Such requests must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES: If you wish to change the content of a record in the system of records, you must contact the system manager with the information described in the notification procedures, identify the specific item(s) to be changed, and provide a written justification for the change, including any supporting documentation. Requests to amend a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES: Information is obtained from guaranty agencies, educational institutions, financial institutions and servicers. Information is also obtained from other Department systems such as the Direct Loan Servicing System, Debt Management Collection System, Pell Grant System, Postsecondary Education Participant System and Central Processing System.

Source: 64 Fed. Reg 30163, June 4, 1999, as amended, 64 Fed. Reg. 72407, Dec. 27, 1999
18-11-05

SYSTEM NAME: Title IV Program Files.

SECURITY CLASSIFICATION: None.

SYSTEM LOCATION:

Program System Service, Office of Student Financial Assistance Programs, U.S. Department of Education, Seventh and D Streets, SW., Room 4640, ROB-3, Washington, DC 20202-5258.

Computer Sciences Corporation, Meridan, Connecticut.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on the following individuals:

- (1) Individuals who apply for Federal financial student aid;
- (2) Recipients of Pell Grants;
- (3) Recipients of Federal Direct Student Loans; and

(4) Borrowers whose loan defaulted or borrower died, became disabled or had a loan discharged in bankruptcy under the Federal Direct Student Loan Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records regarding the amount of Pell Grant applicant receives; applicant's demographic background, loan, and educational status; family income; Social Security number; address and telephone number; and employment information on borrowers and co-signers; default claim number; amount of claim; information pertaining to locating a borrower; collection and repayment history; information pertaining to the amount of the loan and repayment obligation; forbearance; cancellation; disability; and deferment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Higher Education Act of 1965, Titles IV-A, IV-B, IV-D, and IV-E, as amended (20 U.S.C. 1070-1070a-6, 1070b-1070b-3, 1071-1087-2, 1087a, 1087aa-hh).

PURPOSE(S):

The information maintained in this system is used for the purposes of determining program eligibility and benefits, verifying the identity of the individual, enforcing the conditions and terms of the loan or grant, permitting the servicing and collecting of the loan or grant, counseling the individual in repayment efforts, investigating possible fraud and verifying compliance with program regulations, locating a delinquent or defaulted debtor or locating a recipient owing an overpayment on a grant, initiating legal action against an individual involved in program fraud, abuse, or noncompliance, and enforcing Title IV requirements against schools, lenders, and guaranty agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (the Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) Program Disclosures. ED may disclose records for the following program purposes:

(a) To verify the identity of the applicant, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, contractors, business and personal associates and consumer reporting agencies.

(b) To determine program eligibility and benefits, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, contractors, business and personal associates and consumer reporting agencies.

(c) To facilitate default reduction efforts by program participants, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, consumer reporting agencies, contractors and hearing officials.

(d) To enforce the conditions or terms of the loan, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and [*30164] former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(e) To enforce the conditions or terms of the grant, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(f) To permit servicing, collecting or accepting the loan, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(g) To permit collecting overpayment on grants, disclosures may be made to, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(h) To counsel the borrower in repayment efforts, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, contractors and Federal, State or local agencies.

(i) To investigate possible fraud and verify compliance with loan program regulations, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(j) To investigate possible fraud and verify compliance with grant program regulations, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(k) To locate a delinquent or defaulted borrower, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(l) To locate an individual who owes a refund on a grant, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(m) To issue collection letters to defaulted borrowers, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(n) To issue collection letters to an individual who owes a refund on a grant, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(o) To locate a missing borrower, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(p) To locate a missing individual who owes a refund on a grant, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(q) To collect in-file history information and to determine assets and ability to pay a loan debt, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(r) To collect in-file history information and to determine assets and ability to refund an overpayment, disclosures may be made to educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(s) To determine last known address, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(t) To conduct a salary offset hearing under 34 CFR Part 31, disclosures may be made to Federal agencies, contractors and hearing officials.

(u) To prepare for litigation or to litigate collection service and audit, disclosures may be made to guaranty agencies, Federal, State or local agencies, contractors and hearing officials.

(v) To initiate a limitation, suspension and termination (LS&T) or debarment or suspension action, disclosures may be made to guaranty agencies, educational and financial agencies or institutions and hearing officials.

(w) To ensure Title IV requirements are met by schools, lenders and guaranty agencies, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, and hearing officials.

(x) To verify death, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and Federal, State or local agencies.

(y) To conduct credit checks, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and Federal, State or local agencies.

(z) To investigate complaints, update files, and correct errors, disclosures may be made to guaranty agencies, educational and financial agencies or institutions, Federal, State or local agencies, private parties such as relatives, present and former employers and creditors, business and personal associates, consumer reporting agencies, contractors and hearing officials.

(2) Feasibility Study Disclosure. Any information from this system of records may be disclosed to other Federal agencies and to guaranty agencies to determine whether computer matching programs should be conducted by the Department regarding an individual's [*30165] application for or participation in any grant or loan program administered by the Department. Purposes of these disclosures may be to determine program eligibility and benefits, facilitate default reduction efforts, enforce the conditions and terms of a loan or grant, permit the servicing and collecting of the loan or grant, enforce debarment, suspension, and exclusionary actions, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

(3) Enforcement Disclosure. In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto if the information is relevant to any enforcement, regulatory, investigative, or prosecutive responsibility of the receiving entity.

(4) Litigation and Alternative Dispute Resolution (ADR) Disclosures.

(a) Introduction. In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) Disclosure to the DOJ. If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) Administrative Disclosures. If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to the administrative litigation, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) Parties, counsels, representatives and witnesses. If the Department determines that disclosure of certain records to a party, counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative or witness.

(5) Employment, Benefit, and Contracting Disclosure.

(a) For Decisions by the Department. The Department may disclose a record from this system of records as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, such as current licenses, if the disclosure is necessary to obtain a record the Department believes may be relevant to a Department decision concerning the hiring, retention of, or any personnel action concerning an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) For Decisions by Other Public Agencies and Professional Licensing Organizations. The Department may disclose information from this system of records as a routine use to a Federal, State, local, or foreign agency or other public authority or professional licensing organization, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit.

(6) Employee Grievance, Complaint or Conduct Disclosure. If a record maintained in this system of records is relevant to an employee grievance or complaint or employee discipline or competence determination proceedings of another party of the Federal Government, the Department may disclose the record as a routine use in the course of the proceedings.

(7) Labor Organization Disclosure. Where a contract between a component of the Department and a labor organization recognized under Chapter 71, U.S.C. Title V provides that the Department will disclose personal records relevant to the organization's mission, records in this system of records may be disclosed as a routine use to such an organization.

(8) Contract Disclosure. When the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records or performing any other function with respect to the records in this system, relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act Safeguards with respect to such records.

(9) Disclosure to the Department of Justice. The Department may disclose information from this system of records as a routine use to the Department of Justice to the extent necessary for obtaining its advice on any

matter relevant to an audit, inspection, or other inquiry related to the Department's responsibilities under Title IV of the Higher Education Act of 1965.

(10) Research Disclosure. When the appropriate official of the Department determines that an individual or organization is qualified to carry out specific research, that official may disclose information from this system of records to that researcher solely for the purpose of carrying out that research. The researcher shall be required to maintain Privacy Act Safeguards with respect to such records.

(11) Computer Matching Disclosure. Any information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program in connection with an individual's application for, or participation in, any grant or loan program administered by the Department. The purposes of these disclosures may be to determine program eligibility and benefits, enforce the condition and terms of a loan or grant, permit the servicing and collecting of the loan or grant, prosecute or enforce debarment, suspension, and exclusionary actions, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

Among other disclosures, this routine use authorizes disclosure to any other Federal agency, including the Defense Manpower Data Center, Department of [*30166] Defense, for the purposes of identifying and locating individuals who are delinquent in their repayment of debts owed to the U.S. Government under Title IV, HEA programs of the Department, in order to collect the debts under the provisions of the Debt Collection Act of 1982 (including 31 U.S.C. Chapter 37 and 5 U.S.C. 5514) and 31 CFR Part 31 by voluntary repayment or by administrative or salary offset.

(13) Freedom of Information Act (FOIA) Advice Disclosure. In the event that the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice or the Office of Management and Budget for the purpose of obtaining their advice.

(14) Congressional Member Disclosure. The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for the which the record was collected. The member's right to the information is no greater than the right of the individual who requested it.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim which is determined to be valid and overdue as follows: (1) The name, address, social security number, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in either hard copy, microfilm, magnetic tape, or other electronic media.

RETRIEVABILITY:

The file is indexed by Social Security number or name. Data for loans made under the Federal Direct Student Loan Program, FISL Program, Federal Perkins Loan (formerly National Direct Student Loan) Program, Federal Pell Grant Program, and some FFELs are retrievable by Social Security number.

SAFEGUARDS:

All physical access to the Department of Education site, and the sites of Department contractors where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for his or her employee or visitor badge.

The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a "need-to-know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL:

Records of individual loans may be destroyed five years after cancellation, forgiveness or final repayment of the loan. Records of Federal Supplemental Educational Opportunity Grant recipients may be destroyed five years after the fiscal operations report is filed. Records of Federal Pell Grant recipients may be destroyed five years after the initial award year has ended, as set forth in appropriate record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Systems Service, Office of Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4640, ROB-3, Washington, DC 20202-5258.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, you should provide to the system manager your name, date of birth, Social Security number, and the name of the school or lender from which the loan or grant was obtained. Your request must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, you should contact the system manager and provide information as described in the Notification Procedure. Requests by an individual for access to a record must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to change the content of a record in the system of records, contact the system manager with the information described in the Notification Procedure, identify the specific items to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements of the regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from reports from borrowers and their families, lenders, schools, examining or treating physicians, employers, credit agencies, Federal and State governmental agencies, and State or private nonprofit guaranty agencies. However, lenders and guaranty agencies are not a source of information for participants in the Federal Direct Student Loan Program, since the Department maintains individual records of borrowers for this program.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.